

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 STR-04 JUSE-00 FTC-01 AID-05 CEA-01

CIAE-00 COME-00 EB-07 EA-07 FRB-03 INR-07 IO-11

NEA-10 NSAE-00 OPIC-03 SP-02 TRSE-00 CIEP-01 LAB-04

SIL-01 OMB-01 SS-15 NSC-05 L-03 H-02 PRS-01 PA-01

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R 101854Z FEB 76

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TO SECSTATE WASH DC 0571

LIMITED OFFICIAL USE SECTION 01 OF 02 OECD PARIS 04137

PASS: EB FOR BOEKER, L FOR FELDMAN' TREASURY FOR LANGE,
COMMERCE FOR ARRILL, JUSTICE FOR DAVIDOW, CIEP FOR
GRANFIELD

E.O.11652: N/A

TAGS: EINV, EFIN, OECD

SUBJECT: COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTI-
NATIONAL ENTERPRISES (CIME) - NATIONAL TREATMENT

REF: OECD DOCUMENT IME/WP/76.6

1. FOLLOWING IS TEXT OF NEW CIME DOCUMENT (IME/WP/76.6)
ON NATIONAL TREATMENT.

TEXT FOLLOWS:

NATIONAL TREATMENT
(NOTE BY THE SECRETARIAT) (1)

THE GOVERNMENTS OF O.E.C.D. MEMBER COUNTRIES

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HAVING REGARD TO ARTICLE 2(C) OF THE CONVENTION ON
THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOP-
MENT OF 14TH DECEMBER, 1960;

HAVING REGARD TO THE RESOLUTION OF THE COUNCIL
ESTABLISHING A COMMITTEE ON INTERNATIONAL INVESTMENT AND
MULTINATIONAL ENTERPRISES, AND, IN PARTICULAR, PARAGRAPH
2(B)(II) THEREOF, OF 21ST JANUARY, 1975 (C(74)247
(FINAL));

HAVING REGARD TO.....
(TEXT TO BE SUPPLIED BY THE U.S. DELEGATE)

DECLARE THAT

1. MEMBER COUNTRIES WILL, CONSISTENT WITH THEIR NEEDS
TO MAINTAIN PUBLIC ORDER, TO PROTECT THEIR ESSENTIAL
SECURITY INTERESTS, AND TO FULFIL COMMITMENTS RELATING
TO INTERNATIONAL PEACE AND SECURITY, ACCORD TO ENTER-
PRISES OPERATING IN THEIR TERRITORIES AND OWNED OR CON-
TROLLED DIRECTLY OR INDIRECTLY BY NATIONALS OF ANOTHER
MEMBER COUNTRY (HEREINAFTER REFERRED TO AS "FOREIGN
CONTROLLED ENTERPRISES") TREATMENT UNDER THEIR LAWS,
REGULATIONS AND ADMINISTRATIVE PRACTICES NO LESS
FAVOURABLE THAN THAT ACCORDED IN LIKE SITUATIONS TO
DOMESTIC ENTERPRISES (HEREINAFTER REFERRED TO AS THE
"STANDARD OF NATIONAL TREATMENT").
2. THE INSTRUMENT DOES NOT LIMIT THE RIGHT OF MEMBER
COUNTRIES TO REGULATE THE ENTRY OF FOREIGN INVESTMENT OR
THE CONDITIONS OF ESTABLISHMENT OF FOREIGN ENTERPRISES.
3. MEMBER COUNTRIES SHALL CONSIDER APPLYING THE STANDARD
OF NATIONAL TREATMENT IN RESPECT OF COUNTRIES OTHER THAN
MEMBER COUNTRIES ON A BASIS OF RECIPROCITY.
4. MEMBER COUNTRIES SHALL ENDEAVOUR TO ENSURE THAT
TERRITORIAL SUBDIVISIONS APPLY THE STANDARD OF NATIONAL
TREATMENT.

THE COUNCIL

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HAVING REGARD TO ARTICLE 2(C) OF THE CONVENTION ON
THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOP-
MENT OF 14TH DECEMBER, 1960;

RECOGNISING THAT IN APPLYING THE STANDARD SOME
DEROGATIONS MAY HAVE TO BE TAKEN INTO ACCOUNT AND THAT
IT WOULD BE APPROPRIATE TO ESTABLISH, WITHIN THE
ORGANISATION, SUITABLE PROCEDURES THEREFORE, AND TO
CONDUCT REVIEWS TO APPRAISE THE APPLICATION OF THE
STANDARD;

DECIDES THAT:

5. MEASURES CONSTITUTING DEROGATIONS FROM THE STANDARD
OF NATIONAL TREATMENT (INCLUDING RESTRICTIONS ON NEW

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INVESTMENT BY FOREIGN CONTROLLED ENTERPRISES), WHICH ARE
IN FORCE ON THE DATE OF THIS DECISION SHALL BE NOTIFIED
TO THIS ORGANISATION WITHIN 60 DAYS AFTER THE DATE OF
THIS DECISION.

6. MEASURES CONSTITUTING NEW DEROGATIONS TO THE STANDARD
OF NATIONAL TREATMENT TAKEN AFTER THE DATE OF THIS DECISION SHALL BE NOTIFIED TO THE ORGANISATION WITHIN 30
DAYS OF THEIR INTRODUCTION TOGETHER WITH THE SPECIFIC
REASONS THEREFORE AND THE PROPOSED DURATION THEREOF.

7. MEASURES INTRODUCED BY A TERRITORIAL SUBDIVISION OF
A MEMBER COUNTRY, PURSUANT TO ITS INDEPENDENT POWERS,
WHICH CONSTITUTE NEW DEROGATIONS TO THE STANDARD OF
NATIONAL TREATMENT, SHALL BE NOTIFIED TO THE ORGANISATION BY THE MEMBER COUNTRY CONCERNED, INsofar AS IT HAS
KNOWLEDGE THEREOF, WITHIN 30 DAYS AFTER THE RESPONSIBLE
OFFICIALS OF THE MEMBER COUNTRY OBTAIN SUCH KNOWLEDGE.

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8. THE (COMMITTEE) SHALL PERIODICALLY REVIEW THE APPLI-

CATION OF THE STANDARD OF NATIONAL TREATMENT, WITH A VIEW TO REDUCING OR ELIMINATING MEASURES WHICH CONSTITUTE DEROGATIONS THERETO, AND MAKE PROPOSALS AS AND WHEN NECESSARY IN THIS CONNECTION. THE (COMMITTEE) SHALL ACT AS A FORUM FOR CONSULTATIONS, AT THE REQUEST OF A MEMBER COUNTRY, IN RESPECT OF ANY MATTER RELATED TO THIS INSTRUMENT AND ITS IMPLEMENTATION, INCLUDING DEROGATIONS FROM THE STANDARD AND THEIR APPLICATION IN SPECIFIC CASES.

9. MEMBER COUNTRIES SHALL PROVIDE TO THE COMMITTEE, UPON ITS REQUEST, ALL RELEVANT INFORMATION CONCERNING LAWS, REGULATIONS AND ADMINISTRATIVE PRACTICES PERTAINING TO THE APPLICATION OF THE STANDARD OF NATIONAL TREATMENT AND DEROGATIONS THERETO.

(1) THE PRESENT NOTE, BASED ON THE COMMITTEE'S COMMENTS AT THE SESSION OF 28TH AND 29TH JANUARY, 1976, IS SUBMITTED TO THE DRAFTING GROUP FOR DISCUSSION ON 16TH AND 17TH FEBRUARY. THE DRAFTING GROUP BEING AN OPEN ONE, THIS NOTE IS CIRCULATED TO ALL DELEGATIONS.

END TEXT

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